

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In Re the Application of: )  
MIZUNO et al. ) Group Art Unit: 1657  
Serial No.: 10/581,565 ) Examiner: T.M. Gough  
Filed: November 14, 2006 ) Confirmation No.: 6198  
Atty. File No.: 5426SI-2 )  
For: "FATIGUE EVALUATION APPARATUS,  
FATIGUE EVALUATION METHOD, AND  
APPLICATION THEREOF" ) RESPONSE TO RESTRICTION  
 ) REQUIREMENT

Submitted via EFS-Web

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicants submit this Response to address the Restriction Requirement having a mailing date of April 30, 2009. Please credit any overpayment or charge any underpayment to Deposit Account No. 19-1970.

Applicants elect Group II, Claims 8-15, to prosecute in the present application. Applicants reserve their right to prosecute claims in the non-elected groups in future divisional applications.

Applicants respectfully submit that where a single field of a search thoroughly covers all of the claims in an application, different classifications in the Patent and Trademark Office should not be controlling. It is respectfully submitted that in this case the restriction requirement only serves to increase the expense to Applicants and to the Patent and Trademark Office. As noted in the Commissioner's Notice of April 9, 1975, 930 O.G. 450 and M.P.E.P. §803, where search and examination of an entire application can be made without serious burden, the Examiner is encouraged to examine on the merits, even if it includes claims to distinct or independent inventions.

Respectfully submitted,  
SHERIDAN ROSS, P.C.

By:

Joseph E. Kovarik  
Registration No. 33,005  
1560 Broadway, Suite 1200  
Denver, Colorado 80202-5141  
(303) 863-9700

Date: 11/20/09